

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 16,056
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her coverage under VHAP for a routine dental appointment. The issue is whether the petitioner was misled by information provided by the Department into thinking that she was eligible for dental coverage at the time she obtained that service.

FINDINGS OF FACT

1. The petitioner applied for VHAP on April 8, 1999. At the time of her application her worker at the Department explained that initially her coverage would be under a basic fee-for-service arrangement, but that she would then go into a managed care plan with expanded areas of coverage.

2. The petitioner inquired about dental coverage under the plans, and her worker told her that dental was not covered under fee for service, but would be covered when the petitioner was enrolled in managed care. The petitioner maintains that her worker told her that she would be switched over to managed care within four to six weeks.

3. Based on this information, the petitioner scheduled a routine dental appointment for June 23, 1999, which at the time was over nine weeks in the future.

4. The Department mailed the petitioner a notice dated April 13, 1999, stating that

she was eligible for medical assistance under VHAP beginning April 12, 1999. The notice also included the following information:

The way you receive benefits under this program is expected to change at some time in the future. When this happens you will receive another letter with more information. This change will result in better benefits to you. You are now receiving limited benefits coverage (see enclosed brochure). This future change will be to managed care coverage. . . . When you are in managed care, you will also get an ID card and a handbook from the plan. Your handbook will tell you which card to use for which service.

5. The petitioner admits that she did not read this notice carefully when it arrived.

6. Sometime before June 23, 1999, the petitioner received her managed care packet that included a brochure and the necessary cards. The petitioner admits that she did not notice that the packet informed her that her coverage under managed care would become effective July 1, 1999.

7. The petitioner went to her dentist appointment on June 23, 1999. VHAP denied coverage of this appointment because the petitioner was not yet enrolled in the managed care plan at the time the service was rendered.

8. The petitioner maintains that the Department should be responsible for her dental bill because her worker originally told her she would be enrolled in managed care before the date she went to her dentist appointment.

### ORDER

The Department=s decision denying VHAP coverage for the petitioner=s dentist appointment on June 23, 1999, is affirmed.

REASONS

The petitioner does not dispute that the VHAP regulations provide that individuals can be enrolled in a fee-for-service program before a managed care plan becomes available for them. See Medicaid Manual (MM) § 4003. She also does not dispute that managed care plans offer an expanded range of covered medical services under VHAP, including dental services. See MM § 4003.1. Her grievance is that when she initially applied for benefits she was allegedly misled by her worker into incurring an expense for a service that she thought would be covered by the time she scheduled it.

The petitioner is, in legal terminology, making an argument that the Department should be estopped from denying coverage for her dental visit. The four essential elements of estoppel (relying on Burlington Fire Fighter's Ass'n v. City of Burlington, 149 Vt. 293 (1988) as set forth therein) are: (1) the party to be estopped must know the facts; (2) the party to be estopped must intend that its conduct shall be acted upon or the facts must be such that the party asserting estoppel has a right to believe it is so intended; (3) the party asserting estoppel must be ignorant of the true facts; and (4) the party asserting estoppel must detrimentally rely on the conduct of the party to be estopped. Finally, in matters that affect the public sector, a final question must be answered as to whether the injustice to the petitioner if estoppel is not invoked outweighs any public interest in strictly applying the coverage limitations.

In this case the Department certainly knew what the facts were with regard to coverages available under fee for service and managed care. Taking the petitioner=s allegations at face value, her worker orally disseminated general information with regard to those coverages (which was accurate) and when they would take effect (which was

inaccurate). According to the petitioner, she then relied on this information to her detriment.

However, it cannot be concluded that the petitioner was ignorant of the true facts. The information she received in her initial written notice from the Department clearly stated that managed care coverage would not begin until she received further written notice. Moreover, subsequent written notice that the petitioner received before she incurred the expense in question informed her as to the effective date of coverage. The problem is that the petitioner did not read these notices.

In light of the above, it cannot be concluded that the Department can be estopped from denying the petitioner VHAP coverage for the dentist bill in question.

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